

WILSON CAMPILONGO LLP
115 Sansome Street, Suite 400
San Francisco, California 94104

1 ANDREW H. WILSON, ESQ., SBN 063209
LINDA M. FONG, ESQ., SBN 124232
2 WILSON CAMPILONGO LLP
115 Sansome Street, Suite 400
3 San Francisco, California 94104
(415) 391-3900
4 (415) 954-0938 (fax)

5 KENDRICK MOXON, ESQ., SBN 128240
MOXON & BARTILSON
6 6255 Sunset Boulevard, Suite 2000
Hollywood, CA 90028
7 (213) 953-3360
(213) 953-3351 (fax)
8

9 Attorneys for Plaintiff
CHURCH OF SCIENTOLOGY INTERNATIONAL
10

11 CALIFORNIA COURT OF APPEAL
12 FIRST APPELLATE DISTRICT
13 DIVISION FOUR

14 CHURCH OF SCIENTOLOGY)
15 INTERNATIONAL, a California)
not-for-profit religious)
16 corporation;)

17 Plaintiff and)
Respondent,)

18 v.)

19 GERALD ARMSTRONG, et al.,)
20)

21 Defendant and)
Appellant)
22

) Appeal No. A075027

) Marin County Superior
Court No. 157680

) **RESPONDENT'S OPPOSITION TO**
) **APPELLANT'S REQUEST FOR**
) **EXTENSION OF TIME TO**
) **FILE OPENING BRIEF**

23 **I**
APPELLANT HAS FAILED TO ESTABLISH GOOD CAUSE
24 **FOR THE EXTENSION HE REQUESTS**

25 Rule 45.5 (a) of the California Rules of Court provides in relevant part that the court shall
26 grant an extension of time within which to file a brief "[w]hen good cause appears." However
27 that rule also sets forth the policy of California that "the times provided by the rules of court
28 should generally be met so that appellate business is conducted expeditiously and public

1 confidence in efficient administration of justice at the appellate level is maintained."

2 Appellant asserts that he needs an extension because he was, in some unspecified way,
3 threatened by the "Scientology organization," and has left the country as a result. Rule 45.5 (b),
4 however, requires that the application for extension be made by a "declaration containing specific
5 facts, not mere conclusions." (Emphasis Added.) Appellant's declaration is wholly inadequate.
6 Appellant does not state, for example, the nature of the alleged threats or the manner in which
7 they were made.

8 Moreover, as set forth in the Declaration of Andrew H. Wilson filed concurrently with this
9 opposition, there were no "threats" which forced Appellant to leave the country. Rather,
10 Plaintiff/Respondent, through its legal counsel, sent correspondence to Appellant relating to his
11 willful violations of an order of this Court and numerous warnings that contempt proceedings
12 would be brought if the conduct did not cease. Apparently Appellant now claims these warnings
13 were "threats." Wilson Declaration at ¶5. Under the circumstances, it is obvious that the actual
14 reason for Appellant's absence from the country is, and was, to avoid service of the Order to
15 Show Cause re Contempt and to avoid the resulting \$1,000 fine and two-day imprisonment
16 sanction which Judge Thomas ordered imposed upon Appellant. Appellant's actions, including
17 his attempt to mislead this Court, should not be rewarded by allowing Appellant four months to
18 prepare his opening brief.

19 II

20 APPELLANT DOES NOT RELY ON ANY OF THE FACTORS PROVIDED IN THE 21 RULES OF COURT TO ESTABLISH HIS NEED FOR THE EXTENSION

22 Rule 45.5(c) sets forth various factors which shall be considered by the court in
23 determining good cause. Appellant relies on none of them in support of this application. There
24 is no emergency, the issues on appeal are neither complex nor numerous and Appellant does not
25 appear with counsel on appeal. Thus, competing obligations arising out of the normal operation
26 of a law practice are not present here. The absence of such reasons strongly supports a denial
27 of the application.

28 ////

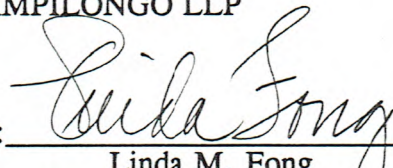
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

III
CONCLUSION

Based on the foregoing, Respondent respectfully requests that Appellant's application for an extension be denied.

Dated: June 9 1997

WILSON CAMPILONGO LLP

BY: 
Linda M. Fong
Attorneys for Respondent

1 ANDREW H. WILSON, ESQ., SBN 063209
LINDA M. FONG, ESQ., SBN 124232
2 WILSON CAMPILONGO LLP
115 Sansome Street, Suite 400
3 San Francisco, California 94104
(415) 391-3900
4 (415) 954-0938 (fax)

5 KENDRICK MOXON, ESQ., SBN 128240
MOXON & BARTILSON
6 6255 Sunset Boulevard, Suite 2000
Hollywood, CA 90028
7 (213) 953-3360
(213) 953-3351 (fax)
8

9 Attorneys for Plaintiff
CHURCH OF SCIENTOLOGY INTERNATIONAL
10

11 CALIFORNIA COURT OF APPEAL
12 FIRST APPELLATE DISTRICT
13 DIVISION FOUR

14 CHURCH OF SCIENTOLOGY)
15 INTERNATIONAL, a California)
not-for-profit religious)
16 corporation;)

17 Plaintiff and)
Respondent,)

18 v.)

19 GERALD ARMSTRONG, et al.,)

20 Defendant and)
21 Appellant.)

Appeal No. A075027

Marin County Superior
Court No. 157680

**DECLARATION OF ANDREW
H. WILSON IN OPPOSITION TO
APPELLANT'S REQUEST FOR
EXTENSION OF TIME TO
FILE OPENING BRIEF**

22
23 ANDREW H. WILSON deposes and says:

24 1. My name is Andrew H. Wilson and I am an attorney licensed to practice before
25 all Courts of the State and have my business address at 115 Sansome Street, 4th Floor, San
26 Francisco, CA 94104. I am one of the attorneys for Plaintiff Respondent in the referenced
27 matter and was one of the attorneys for Plaintiff below. I have personal knowledge of the facts
28 set forth in this Declaration and could competently testify thereto if called as a witness.

1 2. On October 17, 1995 the Court below entered an Order of Permanent Injunction
2 against Defendant Gerald Armstrong following a Motion for Summary Adjudication brought by
3 Plaintiff. This Order was later incorporated into a Judgment entered against Mr. Armstrong on
4 May 2, 1996 (the "Judgment"). One of the prohibitions contained in the Order was against
5 Armstrong assisting persons involved in litigation with certain designated "beneficiaries" of the
6 Order, one of whom was Religious Technology ("RTC"). Despite the injunction Armstrong did
7 render such assistance by writing and filing a lengthy declaration in three cases currently pending
8 in United States District Court for the Northern District of California (RTC v. Erlich, Action No.
9 C95-20091 RMW; RTC v. Henson, Action No. C96-20271 RMW; RTC v. Ward, Action No.
10 C96-20207 RMW).

11 3. As a result of the above, Plaintiff procured an Order to Show Cause against
12 Armstrong which Order required Armstrong to appear and show cause as to why he should not
13 be held in contempt for violation of the Order. Despite numerous attempts, it was not possible
14 to personally serve Armstrong with the Order to Show Cause. Consequently, Plaintiff procured
15 an Order for Service by Publication of the Order to Show Cause which service was completed and
16 a hearing on the Order to Show Cause was held on May 23, 1997.

17 4. At that hearing, the Honorable Gary W. Thomas issued an oral Order holding Mr.
18 Armstrong in contempt and requested me to prepare a written Order for his signature. Attached
19 hereto as Exhibit A is a true and correct copy of the Order which was executed by Judge Thomas
20 and filed on June 5, 1997 is attached hereto and incorporated herein by reference.

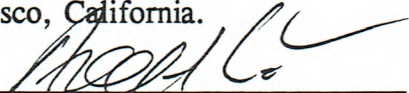
21 5. The "threats from the Scientology organization" to which Mr. Armstrong refers in
22 paragraph three of his Declaration are nothing more than correspondence which I had directed to
23 Mr. Armstrong relating to his violations of the Order and threats to bring contempt proceedings
24 if this conduct did not cease. It is apparent that Armstrong fled the area in order to avoid the
25 service of the Order to Show Cause upon him and remains in hiding in order to avoid the
26 \$1,000.00 fine and two day imprisonment sanction which Judge Thomas imposed upon him.

27 ///

28 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

I declare under penalty of perjury that the foregoing is true and correct and that this Declaration was executed on June 3, 1997 at San Francisco, California.



ANDREW H. WILSON